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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/623,946	11/03/2000	Josef Laumen	1324	2110
7590	08/12/2004		EXAMINER	
Striker Striker & Stenby 103 East Neck Road Huntington, NY 11743			CHAUDRY, MUJTABA M	
			ART UNIT	PAPER NUMBER
			2133	

DATE MAILED: 08/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/623,946	LAUMEN ET AL.
	Examiner	Art Unit
	Mujtaba K Chaudry	2133

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 April 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-8 and 10-12 is/are rejected.
- 7) Claim(s) 1,6 and 7 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant's arguments/amendments with respect to amended claims 1-4 and previously submitted claims 5-8 and 10-12 filed April 30, 2004 have been fully considered but are not persuasive. As a note of reference claim 9 was previously cancelled. The Examiner would like to point out that this action is made final (See MPEP 706.07a).

Applicant contends, "...the cited prior art, it is neither mentioned or suggested to dynamically control the redundancy as a function of the data rate of the transmission channel and/or of the data of the source data." The Examiner disagrees. The Examiner would like to point out that, the specification does not support all the limitations stated in the independent claims, as indicated herein below. However, even if the specification was enabling, the prior art of record, Gordon does teach the foregoing limitations. Gordon teaches an arrayed disk drive system for providing memory to a computer, said arrayed system having a plurality of disk drives configured to form an array, said arrayed disk drives accessed by a plurality of channels, each channel accessing a plurality of disk drives, including a means for controlling the logical configuration of the arrayed disk drives to appear to the computer as any conceivable arrangement of disk drives, whereby the arrayed disk drive may appear to the computer as the plurality of disk drives, or as one large disk drive comprised of all the arrayed disk drives, or any combination in between. A **means for providing a plurality of levels of redundancy on data read or written by the computer to the arrayed disk drives is provided, as well as**

means controlled by the controlling means for enabling from none to the plurality of levels of redundancy to operate on data being read or written from the arrayed disk drives.

[Emphasis added]. The Examiner would like to point out that the varying the redundancy when the data is being read/written is consider to be dynamic as stated in the present application.

Claim Objections

The current amendment has introduced the following objections in the claims.

Claim 1 is objected to because of the following informalities:

- The term “wire code” in the last three lines of the claim should be “fire code.”

Appropriate correction is required.

Claim 6 is objected to because of the following informalities:

- The term “wire code” in the last six lines of the claim should be “fire code.”

Appropriate correction is required.

Claim 7 is objected to because of the following informalities:

- The term “wire code” in the last six lines of the claim should be “fire code.”

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-8 and 10-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Independent claims are introduced with limitations, "...the variable redundancy produced by the ~~wire~~ fire code is used to dynamically adapt a data rate of a source data to an available bandwidth of a respective data channel." The Examiner would like to point out that the current specification does not support all the limitations stated in the independent claims and therefore the specification is non-enabling.

Claim Rejections - 35 USC § 103

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-8 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stephen B. Wicker (Error Control Systems – ISBN 0132008092) further in view of Gordon et al. (USPN 5148432). See office actions, paper No. 6, 10 and 16.

The Examiner disagrees with the Applicant and maintains rejections with respect to amended claims 1-4 and previously submitted claims 5-8 and 10-12 filed April 30, 2004. All arguments have been considered. It is the Examiner's conclusion that amended claims 1-4 and previously submitted claims 5-8 and 10-12 are not patentably distinct or non-obvious over the prior art of record. See prior office actions.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiries concerning this communication should be directed to the examiner, Mujtaba Chaudry who may be reached at 703-305-7755. The examiner may normally be reached Mon – Thur 7:30 am to 4:30 pm and every other Fri 8:00 am to 4:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, please contact the examiner's supervisor, Albert DeCady at 703-305-9595. The fax phone number for the organization where this application is assigned is 703-746-7239.

Any inquiry of general nature or relating to the status of this application or proceeding should be directed to the receptionist at 703-305-3900.

MChd
Mujtaba Chaudry
Art Unit 2133
August 05, 2004

ALBERT DECADY
ALBERT DECADY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100